

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK**

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JOEL RICH and MARY RICH,	:	Civil Action No. 1:18-cv-02223
	:	
Plaintiffs,	:	
	:	
v.	:	
	:	
FOX NEWS NETWORK, LLC, MALIA	:	
ZIMMERMAN in her individual and professional	:	
capacities, and ED BUTOWSKY, in his individual	:	
and professional capacities,	:	
	:	
Defendants.	:	
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**MEMORANDUM OF LAW IN SUPPORT OF CONSENT MOTION TO AMEND  
COMPLAINT**

Pursuant to Rule 15 of the Federal Rules of Civil Procedure, Plaintiffs Joel and Mary Rich respectfully request that the Court grant Plaintiffs leave to file an Amended Complaint. A copy of the proposed Amended Complaint is attached hereto. *See* Franklin Cert., Exs. 1, 2. Plaintiffs have notified Defendants of their intention to move to amend, and all parties have consented to this motion in writing. Plaintiffs have agreed that this consent does not waive Defendants’ right to move to dismiss the Amended Complaint.

Under Rule 15(a)(2) of the Federal Rules of Civil Procedure, a party may amend its pleading if the opposing party consents to the amendment in writing. Fed. R. Civ. P. 15(a)(2); *see also, e.g., Estate of Meimaris v. Royce*, No. 18-cv-4363 (GBD), 2018 WL 4360776, at \*4 (S.D.N.Y. Aug. 22, 2018) (granting motion to amend where no defendant opposed motion).

In remanding the case to this Court, the Second Circuit observed that Plaintiffs’ Complaint, “if amended, could readily allege” either a theory of negligent supervision or vicarious liability, and “instruct[ed] the District Court to allow the Riches to amend their

negligent supervision or retention count.” *Rich v. Fox News Network, LLC*, 939 F.3d 112, 130 (2d Cir. 2019). Accordingly, the proposed Amended Complaint includes additional allegations relevant to vicarious liability and negligent supervision. Discovery is just beginning, Defendants have been on notice of the substance of Plaintiffs’ claims since the original Complaint, and these amendments will not result in prejudice to any party. Moreover, all parties consented to this motion. Accordingly, Plaintiffs respectfully request that the Court grant leave to file the Amended Complaint.

Dated: January 3, 2020

Respectfully submitted,

By: s/Arun Subramanian  
Arun Subramanian

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**CERTIFICATE OF SERVICE**

I hereby certify this 3rd day of January, 2020, that I caused a true and correct copy of the foregoing document to be electronically filed with the Clerk of the Court using the CM/ECF system which will send notification to the attorneys of record, and served all *pro se* parties by registered mail.

*s/ Arun Subramanian*

Arun Subramanian